THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.26218 OF 1995

DATED 05th DECEMBER, 2006

BETWEEN:

Eluru Gosamrakshana Samithi

… Petitioner

AND

The Secretary, Government of Andhra Pradesh, Revenue Department, Secretariat Buildings, Hyderabad and others.

… Respondents

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ORDER:

Eluru Gosamrakshana Samithi is voluntary organization registered under the Societies Registration Act, 1960. Its aim is to develop Goshala to entertain abandoned, infirm, old and sick cows so as to prevent cow-slaughter. The petitioner made a representation to the Government on 10.02.1977 seeking grant of land admeasuring Acs.74.90 (subject land, for brevity) in survey No.997 for cattle and dairy form, for a period of ten years. Considering the same, the District Collector and the Commissioner of Land Revenue (respondents 3 and 2 herein respectively) sent reports to the Government. Initially, the Government issued Memo No.919/Q1/77-5, dated 27.10.1977, permitting the petitioner to enter the subject land pending final orders of grant of land. Subsequently, the Government issued G.O.Ms.No.1627, dated 13.12.1977, granting the subject land subject to conditions under Board Standing Order (BSO) 19-A. The petitioner statedly fulfilled all the conditions of grant including the condition of payment of assessment and cess, and using the land following the technical advice of the officers of upkeep of the animals.

In 1994, the Government by Memo No.76921/ASN.1(1)/89, dated 26.02.1994 requested the District Collector – the third respondent – to send revised proposals for the purpose of revised lease rent and also for reducing the extent of leased land to Acs.32.00. The petitioner filed the present writ petition assailing the said Memo.

This writ petition was admitted on 22.11.1995. The impugned Government Memo was also suspended by reason of the orders passed in W.P.M.P.No.32310 of 1995. The respondents have not filed any counter affidavit so far.

It is the contention of the petitioner that the allotment of land in December, 1977, by the Government is a free grant and the proposal to levy rent is impermissible under BSO 19-A. It is also further contention that without any notice to the petitioner, the area under its occupation can neither be reduced nor the leased amount can be collected.

BSO 19-A deals with grant of lands for cattle and/or dairy forms. BSO 19-A(iii) deals with conditions of grant and BSO 19-A(v) deals with levy of full assessment. The relevant BSO reads as under.

> **19-A (iii). Conditions of grant**:-
> (a) Omitted

(b) The lands will be exempt from payment of assessment for the first five years. But water-cess will be charged under the ordinary rules, if any, Government water is used for irrigation.

19-A (v). Levy of full assessment:- The lands will be fully assessed by the Collector at the end of the period mentioned in clause (iii)(b) supra. If the land is unassessed, the Collector will determine the assessment to be levied, with due regard to the fertility of the soil, etc.

BSO 19-A (vii) deals with resumption of the land enabling the Government to resume the land wholly or in part with any buildings thereon, after one month's notice in the event of infringement or failure to fulfil the conditions of grant/order when the land is required for public purpose or for conducting mining operations.

Apart from BSO 19-A while granting the land to the petitioner vide G.O.Ms.No.1627, dated 13.12.1977, the Government made the grant subject to conditions under BSO 19-A specifically stipulating that the petitioner should pay assessment and cess thereon for the entire extent and in case of default of payment of assessment, the Government can resume the land. The impugned memo was issued by the Government considering reports from the District Collector, dated 09.02.1989 and 27.02.1993 as well as that of the Commissioner of Land Revenue, dated 19.04.1993. Impugned Memo seeks to reduce the area of lease from Acs.74.90 to Acs.32.00. The same is always permissible under the BSO 19-A. Secondly, the submission of the petitioner that the land was allotted as a free grant cannot be accepted as the same runs contrary to BSO 19-A as well as conditions of grant. Further more, it is well settled that the Government as a grantor can always resume the land and/or levy necessary assessment by way of lease or premium on the land allotted. However, as rightly pointed by the learned counsel for the petitioner before reducing the area or enhancing the lease amount, the Government ought to issue notice to the grantee. This was not done. Therefore, though this Court is not inclined to invalidate the impugned order, it observes that the first respondent should issue notice to the petitioner before taking action as proposed in the impugned Memo after receiving the proposals from the District Collector, if not, already received.

The writ petition, subject to above observations, is dismissed. No costs.

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(V.V.S.RAO,J)

05.12.2006.
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